HOUSE BILL 1603-FN

AN ACT establishing the per and polyfluoroalkyl substances contamination remediation and mitigation revolving loan and grant program and fund.


COMMITTEE: Resources, Recreation and Development

AMENDED ANALYSIS

This bill establishes the per and polyfluoroalkyl substances contamination remediation and mitigation revolving loan and grant program and fund.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [in brackets and struckthrough.]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
AN ACT establishing the per and polyfluoroalkyl substances contamination remediation and mitigation revolving loan and grant program and fund.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Chapter; Per and PolyFluoroalkyl Substances (PFAS) Contamination Remediation and Mitigation Program. Amend RSA by inserting after chapter 485-G the following new chapter:

CHAPTER 485-H

PER AND POLYFLUOROALKYL SUBSTANCES CONTAMINATION REMEDIATION AND MITIGATION PROGRAM

485-H:1 Per and Polyfluoroalkyl Substances Contamination Remediation and Mitigation Program and Fund. There is hereby established the per and polyfluoroalkyl substances (PFAS) contamination remediation and mitigation program and fund. Any moneys the state receives from lawsuits or settlements and other funding sources related to PFAS contamination shall be deposited in the PFAS fund. Moneys in this fund shall be nonlapsing and continually appropriated to the department of environmental services for assisting municipalities, community water systems as defined in RSA 485:1-a, and members of the public whose water exceeds the maximum contaminant levels for PFAS as set by the department of environmental services, through the issuing of loans and grants.

485-H:2 Per and Polyfluoroalkyl Substances Contamination Remediation and Mitigation Revolving Loan and Grant Funds.

I. (a) The PFAS contamination remediation and mitigation revolving loan and grant funds shall be administered by the commissioner of the department of environmental services under rules adopted pursuant to RSA 541-A.

(b) A sum equal to 2 percent of all loan principal balances outstanding each year, which shall be an administrative charge, shall be set aside to be used by the department of environmental services to pay the costs of administering the state PFAS contamination remediation and mitigation loan and grant funds.

II. It is the intent of the general court that many projects be considered for inclusion in the PFAS contamination remediation and mitigation revolving loan fund and grant program. Projects addressing the greatest contamination for drinking water systems or private wells that serve the greatest number of people shall be given priority in the awarding of loans and grants.

III. Any borrowing by a municipality from the loan fund or grant funded moneys shall be governed by the applicable provisions of RSA 33, provided that the first principal payment on any
loan and the first of the annual payments required under RSA 33:2 may be deferred up to one year
after the estimated or actual completion date of the project being financed by the loan, and provided
further that no authenticating certificate shall be required under RSA 33:11(b).

485-H:3 Per and Polyfluoroalkyl Substances Contamination Remediation and Mitigation
Program Fund Established. There is hereby established the per and polyfluoroalkyl substances
(PFAS) contamination remediation and mitigation program fund which shall be kept distinct and
separate from all other funds. The PFAS contamination remediation and mitigation program fund
shall be used to fund loans and grants through the PFAS remediation program. The moneys in the
fund shall be nonlapsing.

2 New Subparagraph; Special Fund. Amend RSA 6:12, I by inserting after subparagraph (358)
the following new subparagraph:

(359) Moneys received under RSA 486:15, which shall be credited to the per and
polyfluoroalkyl substances contamination remediation and mitigation program fund established in
RSA 485-H:3.

3 Effective Date. This act shall take effect July 1, 2021.
AN ACT establishing the per and polyfluoroalkyl substances contamination remediation and mitigation revolving loan program and fund.

FISCAL IMPACT: [ X ] State [ ] County [ X ] Local [ ] None

<table>
<thead>
<tr>
<th>STATE:</th>
<th>Estimated Increase / (Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>FY 2020</td>
</tr>
<tr>
<td>Appropriation</td>
<td>$0</td>
</tr>
<tr>
<td>Revenue</td>
<td>$0</td>
</tr>
<tr>
<td>Expenditures</td>
<td>$0</td>
</tr>
<tr>
<td>Funding Source:</td>
<td>[ X ] General PFAS Fund [ ] Education [ ] Highway [ X ] Other -</td>
</tr>
</tbody>
</table>

| LOCAL:                          |                                     |
|                                 | Estimated Increase / (Decrease) |
|                                 | FY 2020 | FY 2021 | FY 2022 | FY 2023 |
| Revenue                         | $0      | $0      | Indeterminable Increase | Indeterminable Increase |
| Expenditures                    | $0      | $0      | $0      | $0      |

METHODOLOGY:

This bill establishes the per and polyfluoroalkyl substances (PFAS) contamination and remediation and mitigation revolving loan program and fund using proceeds received by the State from the State's lawsuits or settlements with manufacturers of products containing PFAS and other funding sources related to PFAS contamination. The nonlapsing, continually appropriated fund would be used by the Department of Environmental Services to assist municipalities and members of the public whose water exceeds the maximum contaminant level (MCL) of PFAS through the issuing of loans and grants. The Department would administer the program pursuant to rules adopted under RSA 541-A. An amount equal to 2% of all loan principal balances outstanding shall be used by the Department to administer the program.

The Department indicates the impacts on state and municipal revenues and state expenditures are indeterminable for the following reasons:

- Proceeds from any lawsuits or settlements cannot be estimated and state expenditures and local revenue would be limited to such proceeds.
- The term "members of the public" is not defined and it is not known if the intent is to include public water systems that are not community water systems, non-public water systems, and others.
systems, private well owners, or other entities. Therefore, the scope cannot be determined.

- The amount needed for loans and grants is not known at this time as sufficient testing for levels of PFAS in New Hampshire's drinking water and groundwater has not been completed and the revised PFAS MCLs are not currently in effect.

While sampling of public water systems has not been completed, the Department can provide a range of potential costs for public water system treatment. These estimates were developed to accompany the recent MCL rulemaking for these compounds. That methodology assumed 9% of sources of public water would need to be treated, estimated an associated water volume and then looked at a range of potential costs using data available from systems that are currently being treated. The result was a cost estimate for initial water treatment ranging from $65 million to $142.8 million, and ongoing annual operating and maintenance costs ranging from $6.9 million to $13.4 million. The Department believes that is a conservative (or high) estimate because it assumed all systems would use treatment versus blending or abandoning wells with high levels of PFAS. Additional sampling since the Fall indicates that the occurrence of contamination may be less than 9%.

In addition, landfills, contaminated sites and groundwater discharge sites must comply with the ambient groundwater quality standards (AGQS). The cost to those sites for compliance is also indeterminable, but the Department has published information on the potential costs for such facilities based on limited sampling. This information is posted on the Department’s Website at:


Based on the assumptions and analysis in the report, the following ranges of potential cost were derived:

<table>
<thead>
<tr>
<th>Type of Facility</th>
<th>Initial Corrective Action Costs</th>
<th>Annual Operating Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Active Hazardous Waste Sites</td>
<td>$2.3 to $4.4 million</td>
<td>$980k to $1.8 million</td>
</tr>
<tr>
<td>Municipal Landfills</td>
<td>$935k to $1.75 million</td>
<td>$465k to $770k</td>
</tr>
<tr>
<td>Groundwater Discharge Permit Sites</td>
<td>$5 million</td>
<td>$849k to $1.6 million</td>
</tr>
</tbody>
</table>

The Department of Justice indicates it would be able to administer the additional tasks resulting from this bill within its existing budget.

AGENCIES CONTACTED:
Departments of Environmental Services and Justice